

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
Civil Action No. 1:10-cv-00283-DLH

JAMES F. MILLER, IV, as trustee of the
JAMES F. MILLER, III IRREVOCABLE
TRUST, and ELIZABETH H. MILLER,

Plaintiffs,

v.

LINCOLN FINANCIAL GROUP d/b/a THE
LINCOLN NATIONAL LIFE INSURANCE
COMPANY,

Defendants.

AFFIDAVIT OF KENNETH ELDER

KENNETH ELDER, being duly sworn, deposes and says:

1. I am over the age of 18 years, and fully competent in all respects.
2. The facts stated in this affidavit are made of my own personal knowledge, voluntarily, and by my own free will.
3. I am a citizen and resident of Guilford County, North Carolina.
4. I am Assistant Vice President, Anti-Money Laundering, Fraud and Investigations for the Lincoln Financial Group ("Lincoln").
5. Lincoln will not knowingly issue a life insurance policy where any of the parties are considering, or actually intend, the eventual transfer of the life insurance policy to a life settlement company or other investor. Such transactions are known as Stranger-Originated Life Insurance ("STOLI") arrangements.
6. Lincoln adopted the policies set forth in the preceding paragraph in 2005, and informed its appointed agents of the same at that time. Lincoln has continued to

maintain its policy against accepting STOLI and has communicated its stance regarding STOLI to its appointed agents on a continuing basis since 2005.

7. Since 2005, promoters of such arrangements have constantly changed their structures and practices in an effort to avoid detection and identification.

8. As Assistant Vice President, Anti-Money Laundering, Fraud and Investigations, I am responsible for investigating the persons and entities responsible for such transactions. The purpose of these investigations is to detect trends and developments in the structure of these transactions so that Lincoln may take appropriate action to enforce the policies described above, including litigation.

9. The Anti-Money Laundering, Fraud and Investigations function reports through the Chief Compliance Officer to Lincoln's General Counsel.

10. Therefore, I convey the results of my investigations to attorneys in the Lincoln legal department. I also meet with these attorneys to discuss how Lincoln might act to enforce the policies described above, including litigation.

11. My investigations have led Lincoln to terminate several hundred agents involved in the transactions described above. Agents have sued and threatened suit against Lincoln as a result of these terminations.

12. My investigations also have disclosed instances in which fraud induced Lincoln to issue a life insurance policy in contravention of the policies described above. Lincoln has filed declaratory judgment actions where appropriate due to these findings. In those instances, I have worked closely with the attorneys pursuing such actions on Lincoln's behalf. As an alternative to declaratory judgment actions, Lincoln might rescind policies by sending rescission correspondence to policy owners and refunding policy premiums.

13. Prior to 2008, Lincoln informed the CEO of Imperial Premium Finance that Lincoln would no longer accept applications for policies for which Imperial Premium Finance would finance payment of policy premiums.

14. My investigations determined that agents and Imperial thereafter changed their structures and practices in an effort to avoid detection and identification of policies in which Imperial Premium Finance had arranged to finance payment of the premiums.

15. My investigations identified life insurance policies in which Imperial Premium Finance had arranged to finance payment of the premiums despite the policies described above.

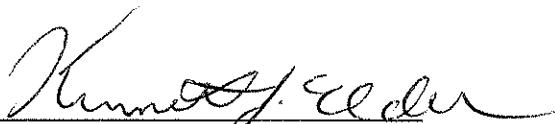
16. My investigations determined that premium payments on several of these policies were made by wire transfer from the Bank of Utah.

17. I investigated the manner in which these policies were structured and the manner in which premium payments were made.

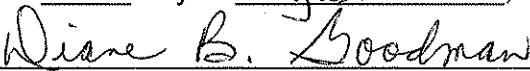
18. I advised attorneys in the Lincoln legal department of my findings so that the attorneys could consider whatever actions they deemed necessary to enforce the above policies, including litigation.

Further affiant saith not.

This the 8th day of August, 2011.


KENNETH ELDER

Sworn to and subscribed before me this
the 8th day of August, 2011.


Notary Public

My Commission Expires:

July 8, 2016



CERTIFICATE OF SERVICE

I certify that on August 8, 2011, I electronically filed the AFFIDAVIT OF KENNETH ELDER with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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